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PATENT**REMARKS**

The Office Action mailed April 2, 2004 has been carefully reviewed and the following remarks are made in consequence thereof.

Claims 1-17 are now pending in this application. Claims 1-17 stand rejected.

In accordance with 37 C.F.R. 1.136(a), a three-month extension of time is submitted herewith to extend the due date of the response to the Office Action dated April 2, 2004, for the above-identified patent application from July 2, 2004, through and including October 4, 2004. In accordance with 37 C.F.R. 1.17(a)(3), authorization to charge a deposit account in the amount of \$490.00 to cover this extension of time request also is submitted herewith.

The objection to the drawings under 37 C.F.R. 1.83 (a) is respectfully traversed. Claims 6 and 16 been amended to clarify the attachment of the loop to the curved portion. Specifically, Claims 6 and 16 have been amended to recite "at least one of said first and second ends is coupled to said curved portion and the other of said first and second ends is coupled to at least one of said shank portion and said tail portion." Accordingly, for at least the reasons set forth above, Applicant respectfully requests the objections to the drawings be withdrawn.

The rejection of Claims 6 and 16 under 35 U.S.C. §112, first paragraph is respectfully traversed. Claims 6 and 16 have been amended to recite "at least one of said first and second ends is coupled to said curved portion and the other of said first and second ends is coupled to at least one of said shank portion and said tail portion." For the reasons set forth above, Applicant respectfully requests that the Section 112 rejection of Claims 6 and 16 be withdrawn.

The rejection of Claims 3 and 14 under 35 U.S.C. §112, second paragraph is respectfully traversed. Claims 3 and 14 have been amended to resolve the antecedent basis of "said outer edge surface". Accordingly, for at least the reasons set forth above, Applicant respectfully requests the Section 112 rejections of Claims 3 and 14 be withdrawn.

The rejection of Claims 1, 3, 4, 7-12, 14, 15, and 17 under 35 U.S.C. § 102(b) as being anticipated by Shelton (U.S. Pat. No. 5,884,428) is respectfully traversed.

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Shelton describes a self releasing hook assembly 10 including a self release hook 12 and a flexible release sleeve 20. The hook includes a straight shank 14, an arcuate section 16, and an eye 18. The eye is positioned on the outer edge of the hook approximately in the middle of the arcuate section. The eye of the hook is configured to attach the hook assembly to a fishing line. Notably, Shelton does not describe nor suggest a wire assembly including a body and a hook assembly coupled to the wire assembly, the hook assembly includes a shank portion, an attachment end extending from said shank portion, the attachment end is configured to fixedly couple to the body.

Claim 1 recites "a hook assembly comprising a body...an attachment end, said attachment end configured to fixedly couple to a lead...a shank portion extending from said attachment end...a curved portion extending from said shank portion...and a closed loop extending from said curved portion."

Shelton does not describe nor suggest a hook assembly that includes a body, an attachment end, the attachment end configured to fixedly couple to a lead, a shank portion extending from the attachment end, a curved portion extending from the shank portion, and a closed loop extending from the curved portion. Rather in contrast to the present invention, Shelton describes a hook that includes an eye that is positioned on the outer edge of a curved portion of the hook wherein the eye is configured to attach to a fishing line. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Shelton.

Claims 3, 4, and 7 depend from independent Claim 1. When the recitations of Claims 3, 4, and 7 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 3, 4, and 7 are likewise patentable over Shelton.

Claim 8 recites "a fishing lure system comprising a wire assembly including a body...and a hook assembly coupled to said wire assembly, said hook assembly includes a shank portion, an attachment end extending from said shank portion, said attachment end configured to fixedly couple to said body, a curved portion extending from said shank portion, a tail portion extending from said curved portion, and a closed loop extending from said curved portion."

Shelton does not describe nor suggest a fishing lure system comprising a wire assembly including a body and a hook assembly coupled to the wire assembly, the hook

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assembly includes a shank portion, an attachment end extending from the shank portion, the attachment end is configured to fixedly couple to the body, a curved portion extending from the shank portion, a tail portion extending from the curved portion, and a closed loop extending from the curved portion. Rather in contrast to the present invention, Shelton describes a hook that includes an eye that is positioned on the outer edge of a curved portion of the hook wherein the eye is configured to attach to a fishing line. Accordingly, for at least the reasons set forth above, Claim 8 is submitted to be patentable over Shelton.

Claims 9-11 depend from independent Claim 8. When the recitations of Claims 9-11 are considered in combination with the recitations of Claim 8, Applicant submits that dependent Claims 9-11 are likewise patentable over Shelton.

Claim 12 recites "a hook comprising an axis...a shank portion substantially parallel to said axis...an attachment end extending from said shank portion, said attachment end configured to fixedly couple to a lead...a curved portion having a first end extending from said shank portion and curving away from said axis, said curved portion having a second end...a tail portion extending from said second end of said curved portion...and a closed loop extending from said curved portion."

Shelton does not describe nor suggest a hook including an axis, a shank portion substantially parallel to the axis, an attachment end extending from the shank portion, the attachment end is configured to fixedly couple to a lead, a curved portion having a first end extending from the shank portion and curving away from the axis, the curved portion having a second end, a tail portion extending from the second end of the curved portion, and a closed loop extending from the curved portion. Rather in contrast to the present invention, Shelton describes a hook that includes an eye that is positioned on the outer edge of a curved portion of the hook wherein the eye is configured to attach to a fishing line. Accordingly, for at least the reasons set forth above, Claim 12 is submitted to be patentable over Shelton.

Claims 14, 15, and 17 depend from independent Claim 12. When the recitations of Claims 14, 15, and 17 are considered in combination with the recitations of Claim 12, Applicant submits that dependent Claims 14, 15, and 17 are likewise patentable over Shelton.

For at least the reasons set forth above, Applicant respectfully requests that the Section 102 rejection of Claims 1, 3, 4, 7-12, 14, 15, and 17 be withdrawn.

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The rejection of Claims 5 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Shelton is respectfully traversed.

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. The mere assertion that “[i]t would have been obvious...to make the loop any desired shape, since there is no invention in merely changing the shape or form of an article without changing its function...” does not support a *prima facie* obvious rejection. Rather, each allegation of what would have been an obvious matter of design choice must always be supported by citation to some reference work recognized as standard in the pertinent art, and the Applicant given an opportunity to challenge the correctness of the assertion or the repute of the cited reference. Applicant has not been provided with the citation to any reference supporting the combination made in the rejection. The rejection, therefore, fails to provide the Applicant with a fair opportunity to respond to the rejection, and fails to provide the Applicant with the opportunity to challenge the correctness of the rejection. Therefore, Applicant respectfully requests that the Section 103 rejection be withdrawn.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or “template” to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on modifying the teachings of a single patent in an attempt to arrive at the claimed invention. However, there is no teaching nor suggestion in the cited art for the modifications deemed obvious by the Examiner, and as such, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated elements of a single disclosure have been picked and chosen in an attempt to deprecate the present invention. Of course, such a hindsight reconstruction is impermissible, and for this reason alone, Applicant requests that the Section 103 rejection of Claims 5 and 13 be withdrawn.

Further, and to the extent understood, Shelton does not describe nor suggest the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claim 5 depends from Claim 1

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which recites "a hook assembly comprising a body...an attachment end, said attachment end configured to fixedly couple to a lead...a shank portion extending from said attachment end...a curved portion extending from said shank portion...and a closed loop extending from said curved portion."

Shelton does not describe nor suggest a hook assembly that includes a body, an attachment end, the attachment end configured to fixedly couple to a lead, a shank portion extending from the attachment end, a curved portion extending from the shank portion, and a closed loop extending from the curved portion. Rather in contrast to the present invention, Shelton describes a hook that includes an eye that is positioned on the outer edge of a curved portion of the hook wherein the eye is configured to attach to a fishing line. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Shelton.

Claim 5 depends from independent Claim 1. When the recitations of Claim 5 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claim 5 are likewise patentable over Shelton.

Claim 12 recites "a hook comprising an axis...a shank portion substantially parallel to said axis...an attachment end extending from said shank portion, said attachment end configured to fixedly couple to a lead...a curved portion having a first end extending from said shank portion and curving away from said axis, said curved portion having a second end...a tail portion extending from said second end of said curved portion...and a closed loop extending from said curved portion."

Shelton does not describe nor suggest a hook including an axis, a shank portion substantially parallel to the axis, an attachment end extending from the shank portion, the attachment end is configured to fixedly couple to a lead, a curved portion having a first end extending from the shank portion and curving away from the axis, the curved portion having a second end, a tail portion extending from the second end of the curved portion, and a closed loop extending from the curved portion. Rather in contrast to the present invention, Shelton describes a hook that includes an eye that is positioned on the outer edge of a curved portion of the hook wherein the eye is configured to attach to a fishing line. Accordingly, for at least the reasons set forth above, Claim 12 is submitted to be patentable over Shelton.

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Claim 13 depends from independent Claim 12. When the recitations of Claim 13 are considered in combination with the recitations of Claim 12, Applicant submits that dependent Claim 13 are likewise patentable over Shelton.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 5 and 13 be withdrawn.

The rejection of Claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Shelton in view of Ulrich (U.S. Pat. No. 6,189,257 B1) is respectfully traversed.

Shelton is described above. Ulrich describes a hook 12 including an upper shank 26 and a lower shank 28. The upper and lower shanks are coupled to a shoulder portion 30 such that an acute angle is formed. An open ended eye or loop 40 extends downward from the lower shank. The open ended loop is generally circular and includes an entrance portion 42 sized to receive an eye of a second hook 14. In operation, the upper and lower shanks maybe biased such that the entrance portion may be enlarged to permit entry of the second hook into the open ended loop. Notably, Ulrich does not describe nor suggest, a closed loop.

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been an obvious to one of ordinary skill in the art to "modify Shelton to include coupling at least one hook and trailing hook as taught by Ulrich in order to array a cluster of fishing hooks...." More specifically, it is respectfully submitted that a *prima facie* case of obviousness has not been established. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01. Moreover, the Federal Circuit has determined that:

[I]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, "it is impermissible...to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what

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such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown.

Although it is asserted within the Office Action that Shelton teaches the present invention except for at least one of a hook, a weight, a spinner blade, and a trailing hook couple to the loop, and that Ulrich teaches coupling at least one hook and a trailing hook, no motivation nor suggestion to combine the cited art has been shown. Rather, Applicant submits that Shelton teaches away from Ulrich in that Shelton describes a closed loop, while in contrast, Ulrich describes an open ended loop. Since there is no teaching nor suggestion in the cited art for the claimed combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant requests that the Section 103 rejection of Claim 2 be withdrawn.

Moreover, if art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention. More specifically, Applicant respectfully submits, as described above, that Shelton teaches away from Ulrich, and as such, thus supports the nonobviousness of the present invention. Consequently, the presently pending claims are patentably distinguishable from the cited combination.

In addition, and to the extent understood, no combination of Shelton and Ulrich describes or suggests the claimed invention. Specifically, Claim 2 depends from Claim 1 which recites "a hook assembly comprising a body...an attachment end, said attachment end configured to fixedly couple to a lead...a shank portion extending from said attachment end...a curved portion extending from said shank portion...and a closed loop extending from said curved portion."

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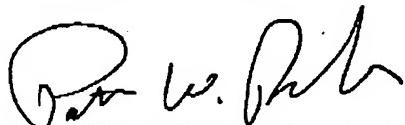
No combination of Shelton and Ulrich, describes or suggests a hook assembly that includes a body, an attachment end, the attachment end configured to fixedly couple to a lead, a shank portion extending from the attachment end, a curved portion extending from the shank portion, and a closed loop extending from the curved portion. Rather in contrast to the present invention, Shelton describes a hook that includes an eye that is positioned on the outer edge of a curved portion of the hook wherein the eye is configured to attach to a fishing line, and Ulrich describes an open ended loop. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Shelton in view of Ulrich.

Claim 2 depends directly from independent Claim 1. When the recitations of Claim 2 are considered in combination with the recitations of Claim 1, Applicant submits that Claim 2 likewise are patentable over Shelton in view of Ulrich.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claim 2 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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